Please add the following claim:

sub Cl --21. The tampon pledget of claim 20, wherein a percent ratio of rayon fibers to superabsorbent fibers is about 70/30.--

REMARKS

Claims 1 through 21 are pending in the application. Claims 4 and 6 are withdrawn from consideration. Claims 1, 16 and 18 have been amended. The amendments to these claims and the specification are detailed in the attachment titled "Detailed Amendments to the Application". Claim 15 has been canceled without prejudice. Claim 21 has been added.

The Action objects to Fig. 1 under 35 U.S.C. §132, as being directed to new matter. Applicants respectfully disagree with the Action's assertion that Fig. 1 is new matter, as each element of Fig. 1 was previously described in the specification as filed. However, to expedite the prosecution of this application to allowance, Applicants have deleted Fig. 1 and all associated matter added to the specification by the amendment filed on June 10, 2002. Therefore, this objection is now rendered moot.

Claims 1 through 20 are rejected under 35 U.S.C. §112, second paragraph as being indefinite.

With respect to claims 1, 16 and 18, the Action queries as to what is meant by "than just prior to ejection"? It is respectfully submitted that this phrase has been removed from claims 1, 16 and 18 by amendment, thus rendering the rejection moot. The amended claims now clearly recite that the diameter

is the diameter of the dry expanding pledget while in the applicator, rather than just prior to expulsion.

With respect to claim 15, the Action queries what a "bell" shape is. As noted above, claim 15 has been canceled without prejudice by this amendment. Therefore, the rejection is now moot.

For the reasons set forth above, Applicants respectfully request reconsideration and withdrawal of the §112, second paragraph rejection of claims 1 through 20.

Claims 1 through 3, 5, 8 through 11 and 14 through 20 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,335,721 to Matthews. Matthews discloses a tampon with a series of parallelly aligned fibers fused to a withdrawal string positioned transversely near one end of the fibers.

Claim 1 recites a dry expanding tampon pledget having a plurality of non-absorbent fibers and a plurality of absorbent fibers. The plurality of non-absorbent fibers and the plurality of absorbent fibers are blended together to form the dry expanding tampon pledget. Immediately after complete ejection from an applicator, and prior to contact with menses, the dry expanding tampon pledget has a free diameter at a widest point from about 25% to about 300% larger than the diameter of the dry expanding tampon pledget in the applicator.

Claim 16 recites a dry expanding tampon pledget having a plurality of non-absorbent fibers and a plurality of absorbent fibers. The plurality of non-absorbent fibers and the plurality of absorbent fibers are blended together to form the dry

expanding tampon pledget. A percent ratio of the plurality of non-absorbent fibers to the plurality of absorbent fibers is about 25/75 to about 65/35. Immediately after complete ejection from an applicator, and prior to contact with menses, the dry expanding tampon pledget has a free diameter at a widest point from about 25% to about 300% larger than the diameter of the dry expanding tampon pledget in the applicator.

Claim 18 recites a dry expanding tampon pledget having a plurality of non-absorbent fibers selected from the group consisting of polyester, polypropylene, polyethylene, aramid, nylon, acrylic, bicomponent, and mixtures thereof and a plurality of absorbent fibers. The plurality of absorbent fibers are selected from the group consisting of rayon, lyocell, wood pulp, cotton, superabsorbent, and any combinations thereof. The plurality of non-absorbent fibers and the plurality of absorbent fibers are blended together to form the dry expanding tampon pledget. Immediately after complete ejection from an applicator, and prior to contact with menses, the dry expanding tampon pledget has a free diameter at a widest point from about 25% to about 300% larger than the diameter of the dry expanding pledget in the applicator.

It is respectfully submitted that Matthews fails to disclose or suggest a dry expanding tampon pledget, let alone one that has non-absorbent and absorbent fibers blended together and immediately after complete ejection from an applicator, but prior to contacting menses, has a free diameter of about 25% to about 300% larger than the diameter of the pledget in the applicator, as recited in claims 1, 16 and 18. As noted in the specification, notably on pages 10-12, the dry expansion tampon pledget of the present invention results in a tampon pledget

that is more comfortable to a user without compromising the absorption properties of the pledget.

While Matthews does disclose the use of fusible (non-absorbent) fibers and cellulosic (absorbent) fibers, Matthews fails to disclose blending these fibers together, as claimed. To the contrary, the individual fibers in Matthews are parallelly aligned along a withdrawal string, and remain discretely aligned after being rolled (col. 1, lines 44-53 in conjunction with Figures 1-5). As a result, the fibers are never blended together, as in the presently claimed pledget.

Notably, nowhere in Matthews is there disclosed, suggested or even contemplated a dry expansion tampon pledget, as recited in the present claims, where after complete expulsion from the applicator, and prior to contact with menses, the pledget has a free diameter at its widest point from about 25% to about 300% larger than the diameter of the pledget in the applicator. However, despite this deficiency in Matthews, the Action contends that the Matthews tampon pledget is fully capable of being compressed and placed in an applicator and after ejection will expand, as claimed. The Action supports this contention by stating that the Matthews tampon pledget is capable of being compressed by more than 25%, placed in an applicator and then expelled and allowed to return to its original dimensions. It is respectfully submitted that the Action's contentions are not factually supported in any manner by the disclosure in Matthews. There is absolutely no disclosure or suggestion in Matthews of a tampon pledget "compressed by more than 25%..." or "allowed to return to its original dimensions.", as specifically stated by the Action.

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999)(citations omitted).

The Action clearly fails to cite any rationale or extrinsic evidence found in Matthews, or anywhere else, that shows that the Matthews pledget possesses the "dry expansion" properties unexpectedly found with the presently claimed tampon pledget. Therefore, the Action impermissibly relies on a mere possibility that these "dry expansion" properties are capable in the cited prior art. Absent any extrinsic evidence making clear that the "dry expansion" properties are necessarily present in Matthews, the Action cannot and does not establish inherency. It is only through the present application that such a "dry expanding" tampon pledget is disclosed or suggested. Therefore, the dry expanding tampon pledget recited in claims 1, 16 and 18 is clearly not anticipated by Matthews.

Claims 1, 9, 14 and 15 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,374,258 to Lloyd et al. (Lloyd). Lloyd discloses a tampon with an absorbent core of a general cylindrical shape having a liquid pervious cover. The

cover layer has a plurality of parallel ribs interconnected by a plurality of fibrillated strands in the transverse direction.

Nowhere in Lloyd is there disclosed, suggested or even contemplated a dry expansion tampon pledget, as recited in claim 1, where after complete expulsion from the applicator, and prior to contact with menses, the pledget has a free diameter at its widest point from about 25% to about 300% larger than the diameter of the pledget in the applicator. Again, to satisfy this deficiency in Lloyd, the Action contends that the Lloyd pledget is fully capable of being compressed and placed in an applicator and after ejection will expand, as claimed. The Action contends that the tampon pledget in Lloyd is capable of being compressed by more than 25%, placed in an applicator and then expelled and allowed to return to its original dimensions. However, the Action fails to provide any extrinsic evidence making clear that the "dry expansion" properties are necessarily present in Lloyd and again impermissibly relies on a mere possibility that these "dry expansion" properties are possessed by the Lloyd tampon pledget. Absent such extrinsic evidence, the Action cannot and does not establish inherency. *In re Robertson*. Again, it is only through the present application that such a "dry expanding" tampon pledget is disclosed or suggested. Therefore, the dry expanding tampon pledget recited in claim 1 is clearly not anticipated by Lloyd. It is respectfully submitted that the Action has failed to provide adequate rationale or evidence showing inherency and thus Lloyd fails to anticipate claim 1.

With respect to the rejection of claim 15, since claim 15 has been canceled by this amendment, the rejection is rendered moot.

Claims 1 through 3, 5, 7 through 11, 13, 14, 16 and 18 through 20 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,817,077 to Foley et al. (Foley). Foley discloses a tampon with a coverstock. The tampon is made with absorbent and non-absorbent fibers for preventing the drying of the vaginal wall.

Nowhere in Foley is there disclosed, suggested or even contemplated a dry expansion tampon pledget, as recited in claims 1, 16 and 18, where after complete expulsion from the applicator, and prior to contact with menses, the pledget has a free diameter at its widest point from about 25% to about 300% larger than the diameter of the pledget in the applicator. Again, to satisfy this deficiency in Foley, the Action contends that the Foley pledget is fully capable of being compressed and placed in an applicator and after ejection will expand, as claimed. The Action contends that the tampon pledget in Foley is capable of being compressed by more than 25%, placed in an applicator and then expelled and allowed to return to its original dimensions. However, the Action fails to provide any extrinsic evidence making clear that the "dry expansion" properties are necessarily present in Foley and impermissibly relies on a mere possibility that these "dry expansion" properties are possessed by the Foley tampon. Absent such extrinsic evidence, the Action cannot and does not establish inherency. *In re Robertson*. Again, it is only through the present application that such a "dry expanding" tampon pledget is disclosed or suggested. Therefore, the dry expanding tampon pledget recited in claims 1, 16 and 18 is clearly not anticipated by Foley. It is respectfully submitted that the

Action has failed to meet its burden of showing inherency and thus Foley fails to anticipate claims 1, 16 and 18.

With respect to claim 20, it is respectfully submitted that claim 20 has been amended to properly narrow the scope of the claim from the Markush group recited in claim 18.

Claims 1 through 3, 5, 8 through 11, 15, 16 and 18 through 20 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,986,511 to Olofsson et al. (Olofsson). Olofsson discloses a tampon having a resilient rotund absorbent fibrous layer supported on a core of stiff material. The tampon can be inserted without the use of an applicator.

Nowhere in Olofsson is there disclosed, suggested or even contemplated a dry expansion tampon pledget, as recited in claims 1, 16 and 18, where after complete expulsion from the applicator, and prior to contact with menses, the pledget has a free diameter at its widest point from about 25% to about 300% larger than the diameter of the pledget in the applicator. Again, to satisfy this deficiency in Olofsson, the Action contends that the Olofsson tampon is fully capable of being compressed and placed in an applicator and after ejection will expand, as claimed. The Action contends that the tampon in Olofsson is capable of being compressed by more than 25%, placed in an applicator and then expelled and allowed to return to its original dimensions. However, the Action fails to provide any extrinsic evidence making clear that the "dry expansion" properties are necessarily present in Olofsson and impermissibly relies on a mere possibility that these "dry expansion" properties are possessed by the Olofsson tampon. Absent such extrinsic evidence, the Action cannot and does not establish

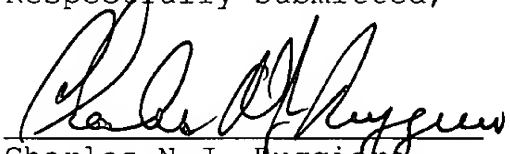
inherency. *In re Robertson*. Again, it is only through the present application that such a "dry expanding" tampon pledget is disclosed or suggested. Therefore, the dry expanding tampon pledget recited in claims 1, 16 and 18 is clearly not anticipated by Olofsson. It is respectfully submitted that the Action has failed to provide adequate rationale or evidence tending to show inherency and thus Olofsson fails to anticipate claims 1, 16 and 18.

Therefore, it is respectfully submitted that none of the cited references anticipate the claimed invention and as such, claims 1, 16 and 18, as well as claims 2, 3, 5, 7 through 14, 17, 19, 20 and 21, which depend directly or indirectly from one of claims 1, 16 and 18, are patentably distinguishable over Matthews, Lloyd, Foley and Olofsson, taken alone or in combination. Applicants respectfully request reconsideration and withdrawal of the §102(b) rejections.

It is respectfully submitted that this is a full and complete response to the Office Action. Applicants respectfully request passage of the application to allowance.

November 18, 2002

Respectfully submitted,



Charles N.J. Ruggiero
Attorney for Applicants
Reg. No. 28,468
Ohlandt, Greeley, Ruggiero & Perle, LLP
One Landmark Square, 10th Floor
Stamford, CT 06901-2682
Tel. (203)327-4500
Fax. (203)327-6401

DETAILED AMENDMENTS TO THE APPLICATION

IN THE SPECIFICATION

The paragraph beginning on line 12 of page 9 of the specification has been replaced with the following rewritten paragraph:

--The tampon pledget of the present invention has its insertion end recessed into the center of the pledget, and is crimped or compressed to a certain extent for insertion into a tampon applicator. The compression should be just enough so that the tampon pledget is "spring-loaded" in the tampon applicator. Once ejected from the tampon applicator, the tampon pledget will expand rapidly preferably into a bell-like shape configuration[, as represented generally by reference numeral 10 in Fig. 1]. The tip or top [12] of this bell-shaped pledget [10] has the removal string [14] secured to it, while the other end of the tampon pledget [10] forms the base [16] of the bell.--

IN THE CLAIMS

Claim 1 is amended as follows:

1. (Twice amended) A dry expanding tampon pledget comprising:

a plurality of non-absorbent fibers; and

a plurality of absorbent fibers, wherein said plurality of non-absorbent fibers and said plurality of absorbent fibers are blended together to form the dry expanding tampon pledget, and

wherein immediately after complete ejection from an applicator, and prior to contact with menses, the dry expanding tampon pledget has a free diameter at a widest point from about 25% to about 300% larger than a diameter of the dry expanding tampon pledget in the applicator [just prior to ejection].

Claim 16 is amended as follows:

16. (Twice amended) A dry expanding tampon pledget comprising:

a plurality of non-absorbent fibers; and

a plurality of absorbent fibers, wherein said plurality of non-absorbent fibers and said plurality of absorbent fibers are [distributed] blended together to form the dry expanding tampon pledget,

wherein a percent ratio of said plurality of non-absorbent fibers to said plurality of absorbent fibers is about 25/75 to about 65/35, and

wherein immediately after complete ejection from an applicator, and prior to contact with menses, the dry expanding tampon pledget has a free diameter at a widest point from about 25% to about 300% larger than a diameter of the dry expanding tampon pledget in the applicator [just prior to ejection].

Claim 18 is amended as follows:

18. (Twice amended) A dry expanding tampon pledget comprising:

a plurality of non-absorbent fibers, wherein said plurality of non-absorbent fibers are selected from the group consisting of polyester, polypropylene, polyethylene, aramid, nylon, acrylic, bicomponent, and mixtures thereof; and

a plurality of absorbent fibers, wherein said plurality of absorbent fibers are selected from the group consisting of rayon, lyocell, wood pulp, cotton, superabsorbent, and any combinations thereof,

wherein said plurality of non-absorbent fibers and said plurality of absorbent fibers are [distributed] blended together to form the dry expanding tampon pledget, and

wherein immediately after complete ejection from an applicator, and prior to contact with menses, the dry expanding tampon pledget has a free diameter at a widest point from about 25% to about 300% larger than a diameter of the dry expanding tampon pledget in the applicator [just prior to ejection].

Claim 20 is amended as follows:

20. (Amended) The tampon pledget of claim [19] 18, wherein [a percent ratio of rayon fibers to superabsorbent fibers is about 70/30] said plurality of absorbent fibers are made of a combination of rayon fibers and superabsorbent fibers.